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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Department of Agriculture--Advance Decision

File: B-259262

Date: December 7, 1994

DIGEST

Bid received late because of bidder's use of an incorrectly addressed, preprinted agency-provided return envelope may be considered since the government's impropriety in furnishing the incorrectly addressed envelope was the paramount cause of the lateness and acceptance of the bid would not compromise the integrity of the bidding system.

DECISION

The Department of Agriculture, Forest Service, Ottawa National Forest, has requested an advance decision concerning the acceptability of a late bid received in response to the Prowler Timber Sale. As explained in further detail below, the Forest Service may accept the bid.

The Prowler Timber Sale information package announced a bid opening of September 7, 1994, at 10:00 a.m. local time with the place of bid opening specified as:

"Ontonagon Ranger District
1209 Rockland Road
Ontonagon, MI 49953"

The package included preprinted return address envelopes. The Forest Service estimates that approximately 12 bid packages were mailed out to prospective bidders.

At the scheduled bid opening, three bids, all of which had been hand-delivered in the preprinted bid envelopes provided by the Forest Service, were opened and read. Later that morning, the Forest Service received a telephone call from Shamion Bros. Logging requesting the bid results. Shamion stated that it had mailed its bid on or about August 31; no such bid had been received by the Forest Service.

In an unrelated telephone call to the Ontonagon Post Office that same day, the Forest Service learned that the post office had a bid envelope in its possession, which had been pulled from the "wrong address pile." That envelope was delivered to the Forest Service in the afternoon mail. The package was received at approximately 3:50 p.m. on September 7, was immediately opened, and found to contain Shamion's bid.

The Forest Service then noted that the envelope was postmarked September 2, but that the address on the preprinted bid envelope provided by the agency, a post office box number, was incorrect. The Forest Service then checked the three hand-carried bids it had received; one of the envelopes also had the incorrect address. The Forest Service reports that the bid was mailed in time to be received prior to bid opening, and has provided a letter from the Ontonagon Post Office stating that Shamion's bid was received at the post office on September 3. The Forest Service explains that Postal Service procedures for handling incorrectly addressed mail resulted in a delayed delivery. Had the correct address been on the envelope, the package would have been received by September 6.

The Forest Service requests that we rule on the acceptability of Shamion's late bid under these circumstances.¹

It is the responsibility of bidders to ensure that their bids arrive at the designated location by the designated time, and bids that do not arrive on time generally may not be accepted. Saint Louis Tuckpointing and Painting Co., Inc., B-212351.2, Nov. 18, 1983, 83-2 CPD ¶ 588; Howard Mgmt. Group, B-221889, July 3, 1986, 86-2 CPD ¶ 28. An exception is made, however, when the paramount cause of the late arrival is some kind of agency impropriety. See, e.g., Veterans Administration-Request for Advance Decision, B-212800, Oct. 25, 1983, 83-2 CPD ¶ 498; Sun Int'l, B-208146, Jan. 24, 1983, 83-1 CPD ¶ 78.


In 48 Comp. Gen. 765 (1969), a case involving the Department of Agriculture, we pointed out that the government has the responsibility to avoid actions that could result in a misdirected, and hence late, bid. There, the solicitation contained conflicting instructions as to whether bids should be addressed to a post office box or a street address, which resulted in the late delivery of the bid in question. We held that the bid should be considered for award.

Here, while the bid package identified a street address for the receipt of bids, the preprinted envelope provided by the Forest Service to Shamion for use in transmitting its bid contained an incorrect, formerly-used post office box address. It is clear from the record before us that Shamion's bid was late solely because it

¹Shamion and the other three bidders have been given an opportunity to comment on this request.

utilized this agency-furnished envelope when mailing its bid. Although Shamion could have noticed the inconsistent address and sought clarification, we think it is unreasonable to expect bidders to examine agency-furnished, preprinted envelopes to ensure that the agency placed the proper address on the envelopes. Thus, we view the agency's furnishing of the incorrectly addressed envelope as the paramount cause for Shamion's late bid.

Since there is no question of any compromise of the integrity of the bidding system by acceptance of the late bid since Shamion relinquished its bid to the post office well prior to the bid opening and the bid remained in the possession of the post office until its receipt by the agency, the Shamion bid may be considered for award.


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